

OPTION B

REMOVED CHANGES TO NUISANCE TREES SECTION

Chapter 12.52 TREES

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12.52.010 Definitions.

~~For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.~~ As used within this chapter:

~~"City trees" (including shrubs) means all trees located in a planter strip or on other city-owned and/or maintained property.~~

~~"Non-city trees" (including shrubs) means all trees other than city trees.~~

"Major pruning" means the removal of large portions of a tree, as determined by the urban forester.

"Nuisance tree" (including shrubs) means:

1. Any tree that is host to a communicable diseases, ~~or~~ destructive disease or other pestilence; or
2. The roots of any tree or shrub or portion thereof which causes the surface of a public street, curb, gutter, or sidewalk to be up-heaved, damaged or otherwise disturbed, or which impedes construction or maintenance of public infrastructure; or
3. Any tree or shrub or portion thereof, which by reason of location or condition, constitutes an imminent danger to the health, safety, or well being of the public; or

4. Any tree or shrub or portion thereof which intrudes into public space or causes impediment to movement for either pedestrians or vehicles;~~or~~
5. Any tree which drops seeds or other debris, but not including leaves, into the property of another and which unreasonably interferes with that person's quiet enjoyment of the property; or
6. Any tree declared by the State of Utah or the United States Department of Agriculture to be subject to quarantine or an order of destruction.
- ~~5. Any tree or shrub or portion thereof which causes impediment to construction or maintenance, or any damage to sidewalks, roadways, utilities or other public property.~~

"Park trees" means all trees located within city-owned parks.

"Planter strip" means the area (if any) located between the outside edge of the curb on a given side of the street and the outside border of the city right-of-way on the same side of the street. Planter strip shall also include tree-well sites located within the city right-of-way.

"Privately-owned trees" means all trees located on private property.

"Street trees" means all trees located in a planter strip or on publicly-owned right-of-way.

"Tree stewardship" means the ongoing and shared responsibility between public and private entities for the protection, care and renewal of trees.

"Urban forester" means the ~~employee person~~ designated as urban forester by the city, and who may be an employee or an independent contractor.

12.52.020 Urban forester.

- A. The mayor may ~~appoint designate an employee or other person as~~ an urban forester. Such person may have as a sole duty, the supervision of trees, or may combine such duty with any other duty which the mayor shall so direct. Multiple foresters may be appointed, as necessary, to fulfill the varying responsibilities established in this Chapter.
- B. The urban forester shall ~~be the supervisor of~~ the urban forestry program and administ~~er~~~~ator of~~ the provisions of this article. The urban forester shall:
 1. Be responsible for the long-term management of ~~city street and park~~ trees~~;~~
 2. Maintain a certified arborist credential from the International Society of Arboriculture, or possess equivalent credentials or experience;
 - ~~23.~~ Foster and maintain partnerships between public and private entities for the benefit of trees~~;~~
 - ~~34.~~ Facilitate communications, coordination, cooperation, and education for the stewardship of city and non-city trees~~;~~
 - ~~4. Be responsible for issuing tree permits.~~
 5. Keep abreast of new information and research in arboriculture~~;~~ and

6. ~~Annually review this article, the status of~~ Supervise the urban forest and any tree master plan ~~to evaluate the effectiveness of each~~ and make recommendations for improvement ~~and/or change~~.

12.52.030 Power to regulate.

- A. ~~It shall be the duty of~~ The urban forester ~~to~~may regulate the planting, removal, upkeep and trimming of trees, shrubs, bushes, vines and plants, upon public property, or on private property abutting public property, in accordance with ~~the regulations provided in~~ this chapter.
- B. The urban forester may declare nuisance conditions for any tree located within the city ~~and order abatement of said conditions~~.

12.52.040 Protection of trees.

- A. No person shall willfully injure or destroy any ~~city~~park tree or street tree. This includes:
 1. Constructing a concrete, asphalt, brick or gravel sidewalk that damages any part (roots, crown, trunk) of the tree so as to cause injury or death;
 2. Filling up the ground area around ~~any city~~the tree so as to shut off air, light, or water from the roots;
 3. Piling building material, equipment, or other substances on or near ~~a city~~the tree so as to cause injury;
 4. Pouring any injurious matter on or around ~~any city~~the tree;
 5. Injuring ~~any city~~the tree, tree-stake, or guard with any vehicle or animal, or in any other manner causing injury to ~~any city~~the tree or lawn on public property;
 6. Posting any sign on ~~any city~~the tree, tree-stake, or guard, or by fastening any guy wire, cable, or rope to ~~any city~~the tree, tree-stake, or guard.
- B. All construction work and associated activities occurring within a distance of one and one-half times the height of an adjoining ~~city~~street tree shall be coordinated with the urban forester to mitigate damage to the tree and danger to the public.
- C. No person shall use a ~~city~~street tree or park tree for any unauthorized purpose. If damage or unauthorized use has compromised the safety of ~~any city~~ a street or park tree, the city may recover compensation from the party responsible, up to and including removal and replacement, employee time, plus value lost, as specified by the urban forester.
- D. It shall be unlawful for any person to interfere with city personnel or contractors under the supervision of the urban forester in the performance of their duties.

12.52.050 Citizen responsibilities.

Citizens shall have the following responsibilities for the care of planter strips and any street trees, ~~or~~ shrubs or vegetation therein which abuts their real property, and for trees and shrubs on private property:

- A. Protecting ~~city-street~~ trees ~~in planter strips~~ from damage caused by lawn mowers, weed trimmers, snow blowers, and similar equipment;-
- B. Protecting ~~city-street~~ trees ~~in planter strips~~ from wounds caused by attachment of any items such as signs, nails, wires, ropes, and chains;-
- C. Purchasing and planting ~~street~~ trees ~~in planter strips~~. The species must be approved by the urban forester, and they then must be planted using the guideline established by the urban forester. A tree permit will be required;-
- D. Removing ~~non-cityprivate~~ trees or limbs from any trees that have ~~actually~~ fallen across a city street sidewalk, or upon city property, ~~unless the tree originated from city-owned property except in the case of park trees;-~~
- E. Maintaining (including watering, mowing, weeding, fertilizing, minor pruning, etc.) all plantings;- and
- F. Removing ~~non-city nuisance~~nuisance trees (including shrubs).

12.52.060 City responsibilities.

The city ~~shall assume~~ has responsibility for:

- A. ~~Major tree care in all public areas~~All care of park trees;-
- B. ~~All m~~Major pruning of citystreet trees, as ~~necessary determined by the urban forester;~~
- C. Removal of diseased or dying ~~city-street~~ trees ~~that~~which, in the opinion of the urban forester, are beyond reclamation;- and
- D. Removal of ~~citystreet~~ trees that are nuisance trees, and removal of street trees or their limbs, ~~or trees that if~~ the urban forester determines ~~to that they are~~ be a hazard or are likely to fall.
- E. ~~Maintenance of city trees on city owned property.~~

12.52.080070 Planting restrictions.

- A. It is unlawful for any person to plant on any public street, avenue or way in the city of South Salt Lake, any bush, tree or plant which is not in accordance with the regulations and specifications found herein and as established by the urban forester in the South Salt Lake Landscape Handbook and Chapter 17.25 of this Code.
- B. No Poplars (Populus), Willows (Salix) or Elms (Ulmus) shall be planted on any public property.
- C. No person shall plant any tree within thirty (30) feet of any intersection corner or the curb and gutter intersection of said corner.
- D. There shall be a minimum of forty (40) feet between tree plants of the type of Maple, Ash and Linden or between trees of a similar size and nature.
- E. All ornamental trees, such as Flowering Crab, Flowering Cherry, Hawthorne and trees of a like kind and nature, shall have a minimum distance of twenty (20) feet between plants.
- F. No person shall plant a tree any closer than fifteen (15) feet from the extended property line of the adjacent property without the consent of the owner of said adjacent property.

and no tree shall be planted closer than six feet to any fire hydrant, water meter or any other service unit.

~~C~~G. It shall be the responsibility of all abutting property owners to keep all trees, bushes, shrubs, vines and plants trimmed so that pedestrian and motor traffic shall be able to clear the sidewalks and streets without any impediment from said trees or plants.

~~H. When trees are planted on a parking strip and a curb and gutter is established, all trees or shrubs shall be spaced and planted midway between the curb and the sidewalk on a strip up to eight feet wide. On any street having a parking over eight feet wide, trees shall be planted five feet from the street edge of the walk.~~

~~I. Only ornamental trees, shrubs, bushes, vines or dwarf trees shall be planted on parking strips under five feet in width, and all planting shall be in the center of said strip.~~

~~J~~D. The urban forester may restrict the planting on any street, avenue or way to a single species by securing the consent of a two-thirds majority of the residents or property owners on the street concerned by a written petition requesting such action, and the filing of said petition with the city council at its usual place of business and by holding a public hearing wherein the residents or property owners have a right to object to such action, provided, however, that the property owners are apprised of such public hearing by due and proper notice in a paper authorized by law to publish legal notices for the city of South Salt Lake. The urban forester shall have authority to restrict in a like manner future planting on any partially planted street.

~~E~~K. Notwithstanding any provision of city code, if a city tree has been destroyed or removed for any reason, the city may replace that tree with one tree of any species. If multiple city trees are destroyed or removed, then those trees may be replaced in any configuration, up to the number which were destroyed or removed. Nothing in this subsection requires the city to replace a tree.

12.52.070-080 Responsibility for correcting nuisance-Nuisance trees.

- A. Where a nuisance tree exists upon property, the property owner, landlord, tenant, or his or her agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the cause thereof, and shall be liable therefor.
- B. It is unlawful for any person, either as owner, agent, or occupant, to create, aid in creating, or maintaining a nuisance tree.
- C. The city shall determine if a particular tree is a nuisance tree and may cause-order all nuisance trees to be abated.
- D. Except as provided in this ordinance, the city may serve a notice in writing upon the owner, occupant, or agent of any lot, building, or premises in or upon which a nuisance tree is found, or upon the person who may be the cause of such nuisance tree, requiring the person to abate the nuisance tree within fifteen (15) calendar days. Failure to give a notice as provided herein shall not relieve the cause of any nuisance tree from the obligation to abate such nuisance, or from the penalty provided for the maintenance

thereof. Notice of appeal may be filed with the mayor's office within five working days of service of the notice to abate. Appeals from the urban forester's decision shall be heard by the mayor or mayor's designate within fifteen (15) calendar days, whereby a final decision will be made.

- E. In case of neglect or refusal of any person to abate any nuisance tree within the time specified in the written notice, the city may abate or procure the abatement thereof.

~~12.52.080 Planting restrictions.~~

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- ~~C. No person shall plant any tree within thirty (30) feet of any intersection corner or the curb and gutter intersection of said corner.~~
- ~~D. There shall be a minimum of forty (40) feet between tree plants of the type of Maple, Ash and Linden or between trees of a similar size and nature.~~
- ~~E. All ornamental trees, such as Flowering Crab, Flowering Cherry, Hawthorne and trees of a like kind and nature, shall have a minimum distance of twenty (20) feet between plants.~~
- ~~F. No person shall plant a tree any closer than fifteen (15) feet from the extended property line of the adjacent property without the consent of the owner of said adjacent property, and no tree shall be planted closer than six feet to any fire hydrant, water meter or any other service unit.~~
- ~~G. It shall be the responsibility of all abutting property owners to keep all trees, bushes, shrubs, vines and plants trimmed so that pedestrian and motor traffic shall be able to clear the sidewalks and streets without any impediment from said trees or plants.~~
- ~~H. When trees are planted on a parking strip and a curb and gutter is established, all trees or shrubs shall be spaced and planted midway between the curb and the sidewalk on a strip up to eight feet wide. On any street having a parking over eight feet wide, trees shall be planted five feet from the street edge of the walk.~~
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~~12.52.090 Appeals of orders or determinations.~~

~~Appeals of actions regarding trees shall be made using the administrative hearing process outlined in Chapter 2.22 of the city code. A hearing request shall be in writing and must be received no later than ten days following such actions.~~

12.52.100 Penalties.

- A. Violation of any of the provisions of this chapter shall be punishable as a Class C misdemeanor, either:
 - 1. As a Class C Misdemeanor; or
 - 2. By imposing civil penalties as established by the city.
- B. In addition to the penalties and abatement procedures outline in this chapter, the city may initiate any or all of the following actions: injunctions; mandamus; proceeding to prevent, enjoin, abate or remove, or other such court actions.
- C. Administrative citations and notices of violation may be appealed as provided in chapter 8.16 and 2.22 of this code.

12.52.110 Tree abatement grant fund.

- A. The City Council may establish a fund from which low-income residents may apply for assistance in abating a tree on owner-occupied property which has been deemed a nuisance, up to one-thousand dollars (\$1,000) per property in a fiscal year.
- B. The mayor or a designee shall establish qualifications and procedures for disbursements from this fund, but in no case shall grant funds be expended on property which is being used for commercial purposes.
- C. For purposes of this section, "low-income" means a person whose income is eighty (80) percent or less of the median income for the City, as determined by the most recent census conducted by the United States Census Bureau.
- D. Nothing in this section requires the City to allocate budget to this fund.